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April 25, 1995

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APR 27 1995

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: CompTel's Proposed Rate Ceiling on Operator Service Calls,
CC Docket 92-77

Dear Secretary Caton:

The New York Department of Public Service (NYDPS) submits these reply comments in the above-captioned proceeding. On March 13, 1995, the Commission released a Public Notice requesting comments on a proposal filed by CompTel, American Public Communications Council, Bell Atlantic, BellSouth, MFS, NYNEX, Teleport and US West (hereinafter "CompTel") to adopt a rate ceiling on "0+" calls from public telephones.

The NYDPS continues to support the concept of "billed party preference" (BPP) because we believe it provides a convenient means for customers to select their preferred OSP when placing calls from public telephones. BPP also should address the concern over the high rates associated with 0+ calls, rates that are a function of the monopoly status enjoyed by OSPs for 0+ calls (as callers have no choice but to use the OSP with whom the payphone owner has contracted to provide service). However, as we have indicated in our previous filings in CC Docket 92-77, we remain concerned about the costs of implementing BPP and the manner in which such costs would be recovered. We also have stated that should the Commission adopt rules requiring BPP, those rules must be limited to interLATA, interstate calls.

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To the extent that CompTel's rate ceiling proposal can provide the benefits associated with BPP at a lower cost, it should be given serious consideration. Based upon the comments, however, there remain a number of outstanding issues that must be resolved before the Commission should consider adopting the rate ceiling proposal. In particular, we believe that the rates proposed for collect, calling card and third party calls are too high. Rate regulation should seek to replicate as closely as possible the prices that consumers would see in a competitive marketplace. In this case, the Commission need look no further than the rates charged by OSPs in the highly competitive market for "dial around" calls. As Sprint illustrates in its comments, the proposed rate ceiling for 0+ calls would result in charges significantly above what Sprint charges its calling card customers.¹ Moreover, while the proposed rates represent a ceiling, and thus, OSPs could elect to set rates below the cap, this seems unlikely given the monopoly status OSPs enjoy in the provision of 0+ calls. Absent competition for 0+ calls, OSPs will have every incentive and opportunity to charge the maximum rate.

We are also concerned about the Commission's ability to adequately enforce the rate cap. As the Florida PSC notes, even with strict enforcement of its intrastate rate cap, it continues to receive complaints from customers.² Enforcement on the interstate level will be equally, if not more, difficult given the large volume of interstate 0+ calls and the FCC's limited resources for addressing customer complaints. Moreover, the proposed monitoring and enforcement process appears far too slow and cumbersome to ensure that those consumers entitled to refunds from OSPs in violation of the rate ceiling would receive them. A better approach might be to prohibit LECs from providing OSPs that violate the rate cap with billing and collection services. The OSP would be able to resubmit the charges to the LEC for customer billing only if they were reduced to a level that did not exceed the rate cap. This approach would better protect customers from unscrupulous OSPs, while obviating the need to issue refunds.

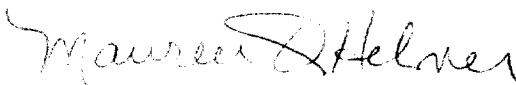
¹ Comments of Sprint, p.7.

² Comments of Florida PSC, p.2.

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Further, we agree that excessive rates charged for 0+ calls are not the only remaining concern in the OSP market.³ On the contrary, our own experiences indicate that many problems remain regarding access code blocking, slamming, branding, non-compliance with posting requirements, and insufficient rate information. Thus, whatever action the Commission elects to take regarding the rate cap proposal, it must recognize that these other problems still must be addressed.

Respectfully submitted,



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³ Comments of NAAG, pp. 4-5.

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